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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,741	06/18/2001	David Holzer	05168.P007	4756
40418	7590	11/05/2004	EXAMINER	
HEIMLICH LAW 5952 DIAL WAY SAN JOSE, CA 95129			ENGLAND, DAVID E	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/884,741	HOLZER, DAVID	
	<b>Examiner</b>	<b>Art Unit</b>	
	David E. England	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 18 June 2001.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-30 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-30 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) *	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/11/02, 4/12/04</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. Claims 1 – 30 are presented for examination.

### ***Information Disclosure Statement***

1. The references listed on the Information Disclosure Statement submitted on 09/11/2002 and 04/12/2004 have been considered by the examiner (see attached PTO-1449).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “service provider communicating update information to the device” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “receiving from the service provider an aggregation of choices for the device” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “choices are displayed on the

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device and a user may select a specific choice” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “updating the device’s memory” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. This statement could make one interpret that the actual memory is being changed and not the contents of the memory, which is common in the art.

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the information received at the service aggregator is selected from the group consisting of device attribute information, branding information, account information, device serial number information, type of device information, application information, and last time used information” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “payor is selected form the group consisting of a subscriber, a non-subscriber, a sponsor, and an advertiser” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

8. Claims 29 and 30 are objected to because of the following informalities: The limitation of "payor" is misspelled and should be "payer". Appropriate correction is required.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### ***Arrangement of the Specification***

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without

underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).  
"Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) **BRIEF SUMMARY OF THE INVENTION.**
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

*Claim Rejections - 35 USC § 112*

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 5, 7 – 12, 14, 18 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

11. The limitation of, “service provider communicating update information to the device”, disclosed in claim 5, is not found or described in the specification. What is found in the specification is the service aggregator communicating updates to a device.

12. The limitation of, “receiving from the service provider an aggregation of choices for the device”, disclosed in claim 7, is not found or described in the specification. Applicant is asked to amend the claim or specifically point out in the specification and drawings where this limitation could be interpreted in view of the claim language.

13. The limitation of, “choices are displayed on the device and a user may select a specific choice”, disclosed in claim 8, is not found or described in the specification. Applicant is asked to amend the claim or specifically point out in the specification and drawings where this limitation could be interpreted in view of the claim language.

14. The limitation of, “the information received at the service aggregator is selected from the group consisting of device attribute information, branding information, account information, device serial number information, type of device information, application information, and last

time used information”, disclosed in claims 10 and 18, is not found or described in the specification. Applicant is asked to amend the claim or specifically point out in the specification and drawings where this limitation could be interpreted in view of the claim language.

15. The limitation of, “updating the device’s memory”, disclosed in claim 14, is not found or described in the specification. It would appear that the Applicant means to have the contents of the device’s memory updated and not the actual physical memory itself. Applicant is asked to amend the claim to reflect this assumption.

16. The limitation of, “payor is selected form the group consisting of a subscriber, a non-subscriber, a sponsor, and an advertiser”, disclosed in claim 30, is not found or described in the specification. Applicant is asked to amend the claim or specifically point out in the specification and drawings where this limitation could be interpreted in view of the claim language.

17. Claims 9, 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, for it dependency on the claims discussed above.

18. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

19. Claims 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

20. The term "sufficiency of a payment" in claim 29 is a relative term which renders the claim indefinite. The term "sufficiency" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not described in the specification as to what would designate a sufficient payment for a user.

21. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, for it dependency on the claim discussed above.

***Claim Rejections - 35 USC § 102***

22. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

23. Claims 1, 2, 4, 6 – 8 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ward et al. U.S. Patent No. 6784924 (hereinafter Ward).

24. Referencing claim 1, as closely interpreted by the Examiner, Ward teaches a method comprising:

25. receiving at a service aggregator information from a device, (e.g. col. 2, line 59 – col. 3, line 14); and

26. transmitting information from the service aggregator to the device directing the device to communicate with a service provider, (e.g. col. 2, line 59 – col. 3, line 14).

27. Referencing claim 2, as closely interpreted by the Examiner, Ward teaches comprising the service aggregator communicating information about the device to the service provider, (e.g. col. 2, line 59 – col. 3, line 14).

28. Referencing claim 4, as closely interpreted by the Examiner, Ward teaches the service aggregator communicating user options to the device, (e.g. col. 2, line 59 – col. 3, line 14, “*preferences*”).

29. Referencing claim 6, as closely interpreted by the Examiner, Ward teaches the information from the device is input by a user, (e.g. col. 3, lines 14 – 39, “*take pictures*”).

30. Referencing claim 7, as closely interpreted by the Examiner, Ward teaches receiving from the service provider an aggregation of choices for the device, (e.g. col. 1, lines 51 – 67, “*selected destination*”).

31. Referencing claim 8, as closely interpreted by the Examiner, Ward teaches the choices are displayed on the device and a user may select a specific choice, (e.g. col. 3, lines, 15 – 39, “*...which are displayed on the LCD...*”).

32. Claim 17 is rejected for similar reasons as stated above.

33. Claims 13 – 16, 19 – 24 and 27 – 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. (6636259) (hereinafter Anderson).

34. Referencing claim 13, as closely interpreted by the Examiner, Anderson teaches a method of device relationship management, comprising:

35. determining a new connection event from a device, (e.g. col. 10, lines 38 – 53);
36. sending a new connection message to the device, (e.g. col. 10, lines 54 – 64);
37. determining and optionally updating the device, (e.g. col. 10, lines 30 – 37);
38. sending messages to the device, (e.g. col. 10, lines 38 – 53);
39. receiving user input from the device, (e.g. col. 10, lines 15 – 29); and
40. configuring the device, (e.g. col. 10, lines 38 – 53).

41. Referencing claim 14, as closely interpreted by the Examiner, Anderson teaches updating the device comprises updating the device's memory, (e.g. col. 10, lines 38 – 53).

42. Referencing claim 15, as closely interpreted by the Examiner, Anderson teaches determining a service provider, (e.g. col. 10, lines 30 – 37); and

43. transferring to the device communication information about the service provider, (e.g. col. 10, lines 38 – 53).

44. Referencing claim 16, as closely interpreted by the Examiner, Anderson teaches transferring to the device communication information about the service provider further comprises instructing the device to establish a connection with the service provider, (e.g. col. 10, lines 38 – 53).

45. Claims 19 – 24 and 27 – 28 are rejected for similar reasons stated above.

***Claim Rejections - 35 USC § 103***

46. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

47. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Morris (6353848).

48. As per claim 3, Ward does not specifically teach the service aggregator communicating update information to the device. Morris teaches the service aggregator communicating update information to the device, (e.g. col. 14, lines 12 – 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Morris with Ward because it would be more convenient for a system to download the update information that could enable a user to use software that could give a device added features on said device in a network than having the device separately install the software from a portable disk, (i.e. CD ROM).

49. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Mighdoll et al. (6662218) (hereinafter Mighdoll).

50. As per claim 5, as closely interpreted by the Examiner, Ward does not specifically teach the service provider communicating update information to the device. Mighdoll teaches the service provider communicating update information to the device, (e.g. col. 16, lines 38 – 56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Mighdoll with Ward because of similar reasons stated above.

51. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Anderson (6636259).

52. As per claim 9, as closely interpreted by the Examiner, Ward does not specifically teach the choices are account choices. Anderson teaches the choices are account choices, (e.g. col. 10, lines 54 – 63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson with Ward because providing the camera with default ISP info and returning new ISP info, may be omitted.

53. Claims 10 – 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Anderson (6636259) in further view of Cook et al. (6636259) (hereinafter Cook).

54. As per claim 10, as closely interpreted by the Examiner, Ward teaches the information received at the service aggregator is selected from the group consisting of device attribute information, account information, type of device information, application information, (e.g. col. 1, lines 51 – 67), but does not specifically teach branding information, device serial number information, and last time used information.

55. Anderson teaches branding information, device serial number information, (e.g. col. 7, lines 13 – 20).

56. Cook teaches last time used information, (e.g. col. 10, lines 30 – 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson and Cook with Ward because providing device information to a central location would give the system information to bill the user for services rendered.

57. As per claim 11, as closely interpreted by the Examiner, Ward does not specifically teach the branding information is prespecified in the device. Anderson teaches the branding information is prespecified in the device, (e.g. col. 7, lines 13 – 20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson with Ward because it would be more efficient for a system to establish a connection with devices that are recognized within the company that develops the hardware and software purchased.

58. As per claim 12, as closely interpreted by the Examiner, Ward teaches the account information is input by a user, (e.g. col. 1, lines 51 – 67).

59. Claims 18 are rejected for similar reasons as stated above.

60. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6636259) in view of Cook (6636259).

61. As per claim 29, as closely interpreted by the Examiner, Anderson does not specifically teach determining a sufficiency of a payment from a payor. Cook teaches determining a sufficiency of a payment from a payor, (e.g. col. 21, lines 11 – 29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cook with Anderson because of similar reasons stated above. Furthermore, it would be more beneficial for a

system to keep track of services rendered by a service provider and to keep users that are delinquent on payments, out of the system until such payment is received for services rendered.

62. As per claim 30, as closely interpreted by the Examiner, Anderson teaches the payor is selected from the group consisting of a subscriber, a non-subscriber, a sponsor, and an advertiser, (e.g. col. 4, lines 10 – 24).

***Conclusion***

63. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

64. a. Schiller et al. U.S. Patent No. 6442573 discloses Method and apparatus for distributing picture mail to a frame device community.

65. b. Morag et al. U.S. Patent No. 6058399 discloses File upload synchronization.

66. c. Chen et al. U.S. Patent No. 5751719 discloses Method and system for data transfer in the presence of disconnects.

67. d. Fuh et al. U.S. Patent No. 6463474 discloses Local authentication of a client at a network device.

68. e. Brandt et al. U.S. Patent No. 6714979 discloses Data warehousing infrastructure for web based reporting tool.

69. f. Anderson et al. U.S. Patent No. 6567122 discloses Method and system for hosting an internet web site on a digital camera.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England  
Examiner  
Art Unit 2143

De *DE*

*William C. Vaughn Jr.*  
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